

ASSESSMENT AREA FORECLOSURE AMENDMENTS

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: R. Curt Webb

Senate Sponsor: _____

LONG TITLE**Committee Note:**

The Political Subdivisions Interim Committee recommended this bill.

General Description:

This bill amends foreclosure provisions in the Assessment Area Act.

Highlighted Provisions:

This bill:

- modifies the methods by which a local entity may enforce an assessment lien; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:****11-42-502**, as enacted by Laws of Utah 2007, Chapter 329**ENACTS:****11-42-502.1**, Utah Code Annotated 1953

*Be it enacted by the Legislature of the state of Utah:*Section 1. Section **11-42-502** is amended to read:

11-42-502. Enforcement of an assessment lien initiated before May 10, 2016.

(1) The provisions of this section apply to any property that is the subject of a foreclosure procedure initiated before May 10, 2016, for an assessment or an installment of an assessment that is not paid when due.

~~[(1)]~~ (2) If an assessment or an installment of an assessment is not paid when due, the local entity may sell the property on which the assessment has been levied for the amount due plus interest, penalties, and costs, in the manner provided:

(a) by resolution or ordinance of the local entity;

(b) in Title 59, Chapter 2, Part 13, Collection of Taxes, for the sale of property for delinquent general property taxes; or

(c) in Title 57, Chapter 1, Conveyances, as though the property were the subject of a trust deed in favor of the local entity.

~~[(2)]~~ (3) Except as ~~[modified by]~~ otherwise provided in this chapter, each tax sale under Subsection ~~[(1)]~~ (2)(b) shall be governed by Title 59, Chapter 2, Part 13, Collection of Taxes, to the same extent as if the sale were for the sale of property for delinquent general property taxes.

~~[(3)]~~ (4) (a) In a foreclosure under Subsection ~~[(1)]~~ (2)(c):

(i) the local entity may bid at the sale;

(ii) the local entity's governing body shall designate a trustee satisfying the requirements of Section 57-1-21;

(iii) each trustee designated under Subsection ~~[(3)]~~ (4)(a)(ii) has a power of sale with respect to the property that is the subject of the delinquent assessment lien;

(iv) the property that is the subject of the delinquent assessment lien is considered to have been conveyed to the trustee, in trust, for the sole purpose of permitting the trustee to exercise the trustee's power of sale under Subsection ~~[(3)]~~ (4)(a)(iii);

(v) if no one bids at the sale and pays the local entity the amount due on the assessment, plus interest and costs, the property is considered sold to the local entity for those amounts; and

(vi) the local entity's chief financial officer may substitute and appoint one or more successor trustees, as provided in Section 57-1-22.

(b) The designation of a trustee under Subsection ~~[(3)]~~ (4)(a)(ii) shall be disclosed in

the notice of default that the trustee gives to commence the foreclosure, and need not be stated in a separate instrument.

~~[(4)]~~ (5) (a) The redemption of property that is the subject of a tax sale under Subsection ~~[(1)]~~ (2)(b) is governed by Title 59, Chapter 2, Part 13, Collection of Taxes.

(b) The redemption of property that is the subject of a foreclosure proceeding under Subsection ~~[(1)]~~ (2)(c) is governed by Title 57, Chapter 1, Conveyances.

~~[(5)]~~ (6) (a) The remedies ~~[provided for]~~ described in this part for the collection of an assessment and the enforcement of an assessment lien are cumulative.

(b) The use of one or more of the remedies ~~[provided for]~~ described in this part ~~[may not be considered to]~~ does not deprive the local entity of any other available remedy or means of collecting the assessment or enforcing the assessment lien.

Section 2. Section **11-42-502.1** is enacted to read:

11-42-502.1. Enforcement of an assessment lien initiated on or after May 10, 2016.

(1) The provisions of this section apply to any property that is the subject of a foreclosure procedure initiated on or after May 10, 2016, for an assessment or an installment of an assessment that is not paid when due.

(2) If an assessment or an installment of an assessment is not paid when due, the local entity may sell the property on which the assessment has been levied for the amount due plus interest, penalties, and costs:

(a) in the manner provided in Title 59, Chapter 2, Part 13, Collection of Taxes, for the sale of property for delinquent general property taxes; or

(b) by judicial foreclosure.

(3) Except as otherwise provided in this chapter, each tax sale under Subsection (2)(a) shall be governed by Title 59, Chapter 2, Part 13, Collection of Taxes, to the same extent as if the sale were for the sale of property for delinquent general property taxes.

(4) (a) The redemption of property that is the subject of a tax sale under Subsection (2)(a) is governed by Title 59, Chapter 2, Part 13, Collection of Taxes.

(b) The redemption of property that is the subject of a judicial foreclosure proceeding under Subsection (2)(b) is governed by Title 78B, Chapter 6, Part 9, Mortgage Foreclosure.

(5) (a) The remedies described in this part for the collection of an assessment and the enforcement of an assessment lien are cumulative.

90 (b) The use of one or more of the remedies described in this part does not deprive the
91 local entity of any other available remedy or means of collecting the assessment or enforcing
92 the assessment lien.

Legislative Review Note
Office of Legislative Research and General Counsel